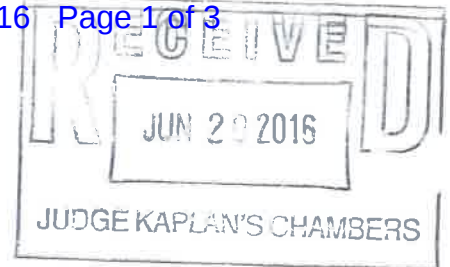


16CV5658

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

PETITIONER NAME

EYAD ISMAIL

v.

UNITED STATES OF AMERICA

CRIMINAL ACTION

CASE NO. ___-cr-___ (LAK)

S12-1:93CR00180-009

PETITIONER'S MOTION PURSUANT TO 28 U.S.C. §2255 (f)(3)
TO VACATE CONVICTION AND SENTENCE ON COUNTS NINE AND TEN

COMES NOW the Petitioner, First Name Last Name ("Petitioner"), proceeding pro se, moving the Court pursuant to 28 U.S.C. 2255 (f)(3) to vacate Petitioner's conviction and sentence on counts nine and ten of the indictment in light of the Supreme Court's recent decisions in Johnson v. United States, 576 U.S. ___ (2015), and Welch v. United States 578 U.S. ___ (2016).

FACTS

See enclosed.

from indictment ...

COUNT NINE The Grand Jury further charges: 14. On or about February 26, 1993, in the Southern District of New York, RAMZI AHMED YOUSEF, ajkja "Azan Muhammad," ajkja "Khurram Khan," ajkja "Rashed," ajkja "Kamal Ibrahim," ajkja "Abdul Basit," ajkja "Adam Ali Qasim," ajkja "Naji Haddad," ajkja "Dr. Paul Vijay," ajkja "Dr. Adel Sabah," ajkja "Arnaldo Forlani," ajkja "Muhammad Ali Baloch," EYAD ISMAIL, ajkja "Eyad Ismail," ajkja "Iyad Mahmoud Ismaeel Najim," and ABDUL RAHMAN YASIN, ajkja "Aboud," the defendants, along with Mohammad Salameh, ajkja "Kamal Ibrahim," Nidal Ayyad, Mahmud Abouhalima, and Ahmad Mohammad Ajaj, ajkja "Khurram Khan," co-conspirators not named as defendants herein, and others known and unknown to the Grand Jury, unlawfully, wilfully, and knowingly, and during and in relation to a crime of violence for which they may be prosecuted in a Court of the United States, namely, the forcible assault of federal officers in violation of Title 18, United States Code, section 111, as set forth in Count Eight of this Indictment, which is incorporated by reference herein, did use and carry a firearm, as that term is defined in Title 18, United States Code, Section 921(a) to include any destructive device, to wit, the defendants did use and carry an improvised explosive device during and in relation to Count Eight of this Indictment. (Title 18, United States Code, sections 924(c) and 2.)

COUNT TEN The Grand Jury further charges: 15. On or about February 26, 1993, in the Southern District of New York, RAMZI AHMED YOUSEF, a/k/a "Azan Muhammad," a/k/a "Khurram Khan," a/k/a "Rashed," a/k/a "Kamal Ibrahim," ajkja "Abdul Basit," a/k/a "Adam Ali Qasim," a/k/a "Naji Haddad," a/k/a "Dr. Paul Vijay," a/k/a "Dr. Adel Sabah," ajkja "Arnaldo Forlani," a/k/a "Muhammad Ali Baloch," EYAD ISMAIL, a/k/a "Eyad Ismail," a/k/a "Iyad Mahmoud Ismaeel Najim," and ABDUL RAHMAN YASIN, a/k/a "Aboud," the

(over)

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defendants, along with Mohammad Salameh, ajk/a "Kamal Ibrahim," Nidal Ayyad, Mahmud Abouhalima, and Ahmad Mohammad Ajaj, a/k/a "Khurram Khan," co-conspirators not named as defendants herein, and others known and unknown to the Grand Jury, unlawfully, wilfully, and knowingly, and during and in relation to a crime of violence for which they may be prosecuted in a Court of the United States, namely, the conspiracy to damage and destroy buildings, vehicles, and other property by means of explosives in violation of Title 18, united states Code, section 371, as set forth in Count One of this Indictment, which is incorporated by reference herein, did use and carry a firearm, as that term is defined in Title 18, united states Code, section 921(a) to include any destructive device, to wit, the defendants did use and carry an improvised explosive device during and in relation to Count One of this Indictment. (Title 18, united States Code, sections 924(c) and 2.)

ARGUMENT

See enclosed.

THEREFORE, Petitioner asks that the Court:

1. Grant Petitioner's motion to vacate his conviction and sentence on Counts Nine and Ten;
2. Enter a sentence based solely on the remaining counts; and
3. Grant further relief as the Court may deem appropriate.

I declare, under penalty of perjury, that the foregoing is true and correct.

Dated this 20 day of June, 2016

Respectfully Submitted,

Eyad Ismail

Name Eyad Ismail

Address U.S.P.-Lee

P.O. Box 305

Jonesville, VA 24263

CERTIFICATE OF DEPOSIT IN THE PRISON MAILING SYSTEM

Eyad Ismail

I, First Name Last Name, certify that this MOTION PURSUANT TO 28 U.S.C. §2255 (f)(3) TO VACATE CONVICTION AND SENTENCE ON COUNTS NINE AND TEN was placed in the prison mailing system on June 20, 2016, with postage for first class mail, addressed to:

The Honorable Lewis A. Kaplan
United States District Court
U.S. Courthouse
Foley Square
New York, NY 10007-1581

Eyad Ismail

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